IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4224 of 2006()

CMP.2172/2006 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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REVN. PETITIONER/COMPLAINANT:

SAJITH SEKHAR,
REJITHA, T.C.30/1256, PETTAH, TRIVANDRUM.

BY ADV. SRI.SANTHAN V.NAIR

RESPONDENTS:/STATE AND ACCUSED:
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1. STATE OF KERALA,
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. M. MERCY K.P.,
   12/214, CHINNAVILA VEEDU, KOTTUKAL,
   PUNNAKULAM, TRIVANDRUM.

   BY PUBLIC PROSECUTOR ADV. SHRI KAMMAPPU.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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CRL. R.P. 4224 OF 2006

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Dated this the 30th November , 2006

O R D E R

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The petitioner filed a complaint under section 138 of the Negotiable Instruments Act before the court of the Addl. Chief Judicial Magistrate, Thiruvananthapuram. It is stated that the complaint was filed on 08.06.2006 and the same was numbered as C.M.P.No. 2172 of 2006. An affidavit was filed in lieu of the sworn statement by the complainant . It is stated that the next posting date was 02.09.2006, but on that date, the complaint was dismissed by the order impugned on the ground that the complainant and his counsel were absent. It is stated that the date of posting was erroneously noted as 10.09.2006 instead of 02.09.2006 and that was the reason for non-representation and non-appearance on 02.09.2006, when the case was called.

2. The complaint was filed in June, 2006. According to the counsel for the petitioner, there was only one posting of the case. In the facts and circumstances of the case, I am inclined to grant an opportunity to the

petitioner to appear before the trial court and prosecute the case. The order impugned is therefore set aside. The petitioner shall appear before the trial court on 18th December, 2006. The trial court shall proceed in accordance with law.

The Crl. Revision Petition is allowed as above.

K.T. SANKARAN,
JUDGE.

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